STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Verizon North Inc. (f/k/a GTE North Incorporated) and Verizon South Inc. (f/k/a GTE South Incorporated)	)	
Petition seeking approval of cost studies for Unbundled Network Elements, avoided costs and intrastate switched access services.	)	Docket No. 00-0812

PHASE I SUPPLEMENTAL INITIAL BRIEF OF
VERIZON NORTH INC. AND VERIZON SOUTH INC.

Verizon North Inc. and Verizon South Inc. (collectively referred to as "Verizon"), through its attorneys, hereby submit this Phase I Supplemental Initial Brief to the Illinois Commerce Commission (the "Commission") on the remaining issues in Phase I of this proceeding. This Brief is filed in accordance with the procedural schedule established by the Administrative Law Judge ("ALJ").

I.
Introduction

Pursuant to an ALJ ruling on July 11, 2003, the following issues (referred to as the "ALJ's Issue List") are to be addressed in Phase I of this proceeding:

1. Does ICM model the correct copper loop lengths and resulting number of Digital Loop Carriers ("DLCs")?

2. Is it appropriate for ICM to model two separate local loop networks?

3. Does ICM accurately model customer locations?

4. Is ICM flexible and readily open to inspection and testing?

5. Whether the Commission should also review the impact of ICM on UNE pricing as a mode of analyzing ICM in Phase I.

6. Whether the Commission should order the use of FCC proxies as interim UNE rates.

ALJ Ruling, July 11, 2003. This list focuses primarily on modeling issues. By agreement of the parties, UNE expense inputs will be decided in Phase II of this proceeding.

With the settlement and dismissal from this docket of the issues applying ICM to access, only the modeling issues remain in Phase I of this proceeding. The first five issues on the ALJ's Issue List represent an agreement by the parties on the remaining issues to be resolved in the first phase of this proceeding. It does not represent an agreement as to the *legitimacy* of any of the issues or underlying arguments. For example, with respect to Issue 5 above, IRCA asserts that ICM be judged based on its impact on UNE pricing. It is Verizon's position that such a result-driven analysis is illegal and turns this entire process on its head. In essence, IRCA is advocating that rates should bear no relationship to costs. However, while strongly objecting to this approach on the merits, Verizon did not object to simply including this issue in the list.

The agreement of the parties did not include Issue 6 above. It is Verizon's position that IRCA's request for interim rates is illegal. Additionally, the original trifurcation of issues in this proceeding did not include the setting of any rates in the first phase of this proceeding. While IRCA was not a party to this proceeding at that time, IRCA is subject to the procedural schedule that was in place at the time of its intervention. As such, it is improper for IRCA to seek a revision of the original scope of this phase at this time. Nonetheless, this brief also addresses this issue.

II.
Argument

A. ISSUE 1: ICM Models The Correct Number Of DLCs

ICM models a network that is consistent with the Commission's Part 791 rules and the FCC's TELRIC requirements. These Commission and FCC standards contemplate a hypothetical model network that is both forward-looking and built from scratch. As such, the

goal of ICM is not to replicate Verizon's existing network, but rather to model a network that best calculates Verizon's costs on a forward-looking basis.

As filed, ICM models a 12kf, 6 mbps copper loop network that does not impede the provision of advanced data services. (Tucek Reb., Verizon Ex. 2.0, pp. 15-16). This modeled network has the capability of providing advanced services requiring the transmission speed of the most commonly deployed form of xDSL.[1] (*Id*.) In order to achieve the 6 mbps transmission speed, the copper loop length must be limited to 12kf. This is accomplished by adding DLCs to the loop.

ICM also includes the 18kf copper loop length restriction that allows for speeds slower than 6 mbps. (Tucek Reb., Verizon Ex. 2.0, p. 16). This option remains consistent with the Revised Resistance Design ("RRD") standard used to lay out local loops on a global, or wire-center wide, basis. (*Id*.) The RRD standard requires that all copper loops greater than 18kf be loaded.[2] (*Id*.) Accordingly, with this option, ICM models a network containing copper loops that, like the 12kf, 6 mbps option, do not impede some form of advanced data services—albeit at a speed slower than 6 mbps. Under this option, DLCs also are utilized to limit the copper loop length to 18kf.

ICM's 12kf, 6 mbps copper loop option network best meets the FCC and Commission standards. However, ICM should not be rejected if the Commission does not agree with this option. At a minimum, the copper portion of the loop should be restricted to 18 kilofeet, in order to comply with the RRD standard used to lay out local loops on a wire-center wide basis. (Tucek Reb., Verizon Ex. 2.0, p. 16). As such, the 18kf option models a network that will not impede

[1] This capability to accommodate advanced services does not mean the forward looking costs include all the costs necessary to provision all advanced services. The costs to implement all types of advanced services, including all forms of xDSL are not included in this study. (*See* Tucek Sur., Verizon Ex. 3.0, p. 33).

[2] *Bellcore Notes on the Networks*, Issue 3, December, 1997; pp. 7-68 and 7-69.

the minimum transmission speed specified by the Public Utilities Act (the "Act"). However, the performance capability of the advanced services declines along with the transmission speed of the copper loop. (*Id*., p. 35). The choice is not to accept or reject ICM on the basis of the option selected in the Company's filing. The choice is between selecting the 12kf modeled network that meets the transmission speed specified by both the FCC's definition of advanced services and the Act, or the 18kf network that only meets the requirements of the definition in the Act.

IRCA and Staff allege that the ICM modeled network is overbuilt because too many DLCs are modeled. Additionally, Staff argues that ICM has modeled the wrong DLC. Both of these criticisms were fully rebutted in Verizon testimony with hard facts. As demonstrated below, both allegations are groundless.

Contrary to the positions of Staff and IRCA, ICM does not model too many DLCs in its local loop network. Although ICM does, in fact, model more DLCs than are present in Verizon's existing network in Illinois, the assertion that the cost or number of DLCs is "excessive and imprudent" is unjustified. These parties simply ignore the copper loop length restrictions required to provide advanced services or to meet the RRD standard discussed above. Given these restrictions, there is no way to model fewer DLCs. (Tucek Reb., Verizon Ex. 2.0, pp. 14-15).

IRCA witness Hendricks asserts that due to the sparseness of population in some of Verizon's exchanges, "…it is not hard to imagine that many of the DLCs assumed to be placed would serve only 1, 2, or a handful of customers." (Hendricks Dir., IRCA Ex. 1.0, p. 10). This criticism is baseless. As explained by Verizon witness Tucek, under the 12kf option, only 207 DLCs, or 4.7% of the modeled DLCs, serve 5 or fewer customers. (Tucek Reb., Verizon

Ex. 2.0, p. 17). Under the 18kf option, only 67 DLCs, or 3.3% of the modeled DLCs, serve 5 or fewer customers. (*Id*.)

Furthermore, the lines served by these DLCs represent only 0.09% and 0.03% of the lines in Verizon's Illinois network, respectively. (Tucek Reb., Verizon Ex. 2.0, p. 17). Even under the 12kf options, less than 1% of the lines in ICM's modeled network are served by DLCs with 12 or fewer lines. (*Id*.) Mr. Hendricks' contention that many of ICM's DLCs "would serve only 1, 2, or a handful of customers" is devoid of merit.

Additionally, Mr. Hendricks' concern about the impact of modeling the deployment of small DLCs in sparse population areas is unsupported. As Verizon witness Tucek stated in his Rebuttal Testimony:

> …if the material and placement costs of the smallest DLC are set equal to zero, the TELRIC of the 2-wire loop drops by $1.23, or only 4.6 percent. This result is for the 12kf, 6 mbps option. For the 18kf option, the decrease is $0.37, or only 1.5 percent.

(Tucek Reb., Verizon Ex. 2.0, p. 17).

Clearly, Mr. Hendricks' testimony that ICM models too many DLCs is inconsistent with the record in the instant case. Mr. Hendricks' criticisms of ICM are merely his unsupported opinion stated as fact.

Staff witness Koch similarly claims that there are too many DLCs in the modeled network. Mr. Koch also asserts that ICM models the incorrect type of DLCs. (Koch Dir., Staff Ex. 1.0, pp. 14-15).

Regarding the number of DLCs, Mr. Koch does not provide any evidence to support his conclusion. He only states that:

> …the modeling assumptions in ICM for each of the three scenarios configure a network that is inefficient and costly. Even under the least costly and technically advanced modeling scenario, NGDLCs are placed so that the copper portion of the loop is no longer under 18kf for any customer. This is simply an unrealistic, and very costly, assumption for a telephone network, especially a network like Verizon's, which serves many rural areas, and may be presumed to serve a substantial amount of customers located further than 18kf from serving central offices. The number of NGDLCs is significantly increased—indeed inflated—as a result of this assumption. The result is that the network is 'over-built' and the cost of the network is inflated.

(Koch Dir., Staff Ex. 1.0, p. 15).

This quote is all that Staff has asserted with respect to the number of DLCs in the modeled network. There is not one reference to a standard, nor a cite to actual facts—just Mr. Koch's unsupported opinion that Verizon's ICM models too many DLCs.

Mr. Koch is wrong and his statements were totally refuted in the Rebuttal and Surrebuttal testimonies of Verizon witness Tucek. First, Koch fails to consider, for example, that the Commission's rules require that costs be modeled as if the service were being offered for the first time. (83 Ill. Adm. Code § 791.20(c)). Accordingly, this requires, at a minimum, the copper portion of the loop be restricted to 18 kf in order to comply with the RRD standard used to lay out local loops on a wire-center wide basis. (Tucek Reb., Verizon Ex. 2.0, p. 16). If Mr. Koch believes that ICM models too many DLCs under the 12-kf copper loop restriction, this belief cannot credibly exist if the 18-kilofoot option is chosen for ICM.

Furthermore, Mr. Koch's bald assertion that the number of DLCs overstates costs does not hold up when compared to the actual facts in the record. The record indicates that ICM's modeled circuit equipment investment is almost 50% below either the reproduction cost or the book cost of this equipment. (Tucek Reb., Verizon Ex. 2.0, Att. DGT-1, p. 2; Tucek Sur.,

Verizon Ex. 3.0, p. 32). Mr. Koch's assertions regarding the number of modeled DLCs are inconsistent with the record.

Additionally, Mr. Koch does not recognize that Verizon is purchasing the DLCs modeled by ICM for use in its network today. By comparison, the SLC-96 that Mr. Koch puts forth as a forward-looking, "traditional" DLC (Koch Reb., Staff Ex. 1.1, p. 15) does not have the GR303 capability and is no longer manufactured. (Tucek Reb., Verizon Ex. 2.0, p. 17). Clearly, the SLC-96 is not a forward-looking technology. What Mr. Koch proposes is "backward looking," not forward looking.

Finally, ICM's use of NGDLCs is more efficient than the "traditional" DLCs espoused by Mr. Koch. The GR-303 interface provided by ICM's NGDLCs is more efficient because it allows for greater concentration on the DS-1 links that connect the DLC to the central office. (Tucek Sur., Verizon Ex. 3.0, p. 33).

In sum, the evidence demonstrates that ICM models a network that is consistent with both FCC and Commission requirements. Parties' arguments to the contrary lack merit and should be rejected.

B. Issue 2: ICM Properly Models Two Local Loop Networks

In light of the settlement and dismissal of access from this docket, it is no longer necessary to decide access costs.[3] As such, Verizon's proposed modeling of its retail network is now moot. Nevertheless, Verizon will address the merits of this issue since it is on the ALJ's Issue List.

[3] There is a dispute between Verizon and AT&T as to whether the settlement of access rates removed the issue of access costs from this proceeding. However, in order to prevent any delay of this phase of the proceeding, the parties agreed to address this dispute in Phase II of this proceeding. It is further Verizon's position that nothing prevents the ALJ from deciding that access cost issues are now moot.

ICM models two separate networks: one is the wholesale local loop network and the other is the retail network. The differences in the two modeled networks relate only to the loops served by DLCs. (Tucek Sur., Verizon Ex. 3.0, p. 36). In order to estimate the costs of unbundled loops, ICM makes the assumption that all loops served by a DLC are terminated on a Central Office Terminal ("COT"). (Tucek Reb., Verizon Ex. 2.0, p. 20). The reason for this is that an unbundled loop must be handed off at a voice-grade level. (Dye Reb., Verizon Ex. 5.0, p. 8). When such loops are used to serve a retail customer, they are terminated on the trunk side of the switch. Such a configuration is said to be integrated and is designated by the acronym IDLC—"Integrated Digital Loop Carrier." (Tucek Sur., Verizon Ex. 3.0, p. 36). It is not possible to unbundle an IDLC loop, since by definition an unbundled loop must terminate at the CLEC collocation space. (*Id.*)

Retail loops that are served via IDLC are unbundled in one of two ways. Either they are terminated in a COT through a Universal Digital Loop Carrier ("UDLC") configuration, or they are transferred to copper facilities and terminated in a D4 channel bank. (Tucek Sur., Verizon Ex. 3.0, p. 36). ICM models the cost of an unbundled loop by assuming the UDLC configuration for all loops. (*Id.*) This assumption produces a lower cost estimate because it takes advantage of the already existing fiber link between the DLC and the office, thereby eliminating the cost of any copper feeder facilities that might actually be used. (*Id.*, p. 37). The estimated costs are also lower because ICM assumes the maximum possible fill on the COTs in the wire center. (*Id.*)

With respect to the switched access filing, ICM properly assumes such lines are terminated on the trunk side of the switch using IDLC because that is how such loops would be provisioned when they are not unbundled. (*Id.*, p. 37). As some of these loops will be unbundled in the real network and not provisioned with IDLC, ICM's resulting DS-1 port

utilization will be greater than what can be actually realized. (*Id*.) Accordingly, the modeled trunk port LRSICs is understated. (*Id*.)

The record demonstrates that ICM's dual network approach understates the cost of providing both unbundled and retail loops out of a single network. This is because the mix of end-users served by Verizon and by CLECs will fluctuate over time. As stated by Verizon witness Tucek:

> Because Verizon must build and maintain a network that serves both its own and the CLECs' end-user customers, there will be fewer end-users terminated on COTs than the model assumes. Likewise, there will be fewer end-users terminated on the trunk side of the switch than the model assumes in the retail configuration. Consequently, the per-line cost of a COT or trunk-side termination in a single network will be higher than what either modeled network produces.

(Tucek Reb., Verizon Ex. 2.0, pp. 37-38).

The criticism of this approach by Staff is unfounded. Staff witness Zolnierek criticizes ICM's two network approach stating that the wholesale network results in a greater level of modeled investment than does the retail configuration. (Zolnierek Dir., Staff Ex. 2.0, p. 26). This is incorrect. First, the problem with Mr. Zolnierek's analysis is that he ignores both the implications of and the reasons for Verizon adopting this approach. His testimony does not address the fact that Verizon's separate network approach results in lower costs, nor does it acknowledge that the definition of an unbundled loop requires the costs of loops served by a DLC to be modeled as if it were terminated on a COT. The testimony also fails to offer an alternative methodology for estimating the TELRIC of an unbundled loop..

Additionally, while Mr. Zolnierek is correct that the wholesale-modeled investment is greater than that of the retail configuration, the evidence demonstrates that the increase is not material. (Tucek Reb., Verizon Ex. 2.0, p. 21). Mr. Zolnierek ignores this point. Verizon

witness Tucek summarizes the differences in the modeled investment for the two affected accounts and for the network as a whole. (*Id*., Att. DGT-2). For the two affected accounts (Digital Electronic Switching and Circuit Equipment), the increase in the modeled investment is less than 2.3% and 1.9% for the 12kf and 18kf runs, respectively. For both runs, the increase in *total* modeled investment is less than *0.5%*. (*Id*.)

The record demonstrates that both the unbundling requirements for a loop and the cost implications of utilizing a separate network approach outweigh Mr. Zolnierek's imagined defect. As such, Staff's criticism should be rejected.

C. Issue 3: ICM Accurately Models Customer Locations

The record demonstrates that ICM's modeling of customer locations is accurate, reasonable and based on sound analysis. Indeed, Staff's witness accepted ICM's loop length calculations. (Koch Reb., Staff Ex. 1.1, p. 21). IRCA witness Hendricks' assertions to the contrary are unsupported and lack merit.

Verizon witness Tucek testified that ICM calculates customer locations by assigning line count estimates by census block to a grid that is 1/200th by 1/200th of a degree in size. (Tucek Dir., Verizon Ex. 1.0, pp. 23-24). The line count estimates by census block were developed by PNR Associates. (*Id*.) ICM makes the assignment of customer lines to the grid on the basis of each grid's share of road feet in the wire center. (*Id*.)

The record demonstrates that the data used to make these calculations is accurate. The grids that are used are mapped to Verizon's wire center based on the exchange boundary. (*Id*.) The resulting totals for each wire center are trued up so that the sum of the adjusted demand corresponds to ARMIS for each wire center. (*Id*.) As such, the sum of the lines assigned to each grid in a wire center equals the total actual line count for the wire center. (*Id*.) The road feet

measure in ICM is taken from the US Census Bureau's TIGER files, and corresponds to the types of roads along which residential or business development would normally occur, and from which customers would have access to their premises. (*Id*.) The measure excludes interstate highways, limited access roads, bridges, tunnels, access ramps, alleys, driveways and motorcycle trails. (*Id*.)

Nevertheless, Mr. Hendricks charges that ICM's modeling of customer locations is inaccurate. (Hendricks Dir., IRCA Ex. 1.0, pp. 6-8). Yet, his testimony does not provide any analysis to support this conclusion other than his statement that ICM produces a loop cost that is "too high." The record demonstrates that the differences between ICM's costs and the existing retail rates result from factors unrelated to ICM's modeled network. Accordingly, Mr. Hendricks' comparison of ICM's costs with existing retail rates is not a proper basis for reaching a conclusion regarding the adequacy of ICM's modeling of customer locations.

In his Direct Testimony, Mr. Hendricks also contends that ICM does not utilize actual (geocoded) customer locations. (Hendricks Dir., IRCA Ex. 1.0, pp. 6-8). This is not a valid criticism of ICM. Indeed, the record demonstrates that geocoding is not a superior method of modeling customer locations. As Verizon witness Tucek testified, it is a costly and time-consuming endeavor and is "never anywhere near 100% successful."[4] (Tucek Sur., Verizon Ex. 3.0, p. 51). As a result, models that rely on geocoded customer locations must employ a proxy method to develop "geocoded" locations for customers that could not be located. (*Id*.)

In his Rebuttal Testimony, Mr. Hendricks abandons his call for use of actual customer locations data and instead recommends that the Commission "require Verizon to develop costs

[4] The industry's biggest proponent of geocoding, AT&T, reports a success rate of only 73% for Illinois overall, and 56% for Verizon's Illinois network. Additionally, the geocoded data underlying AT&T's HAI model is based on a 1997 Metromail address list, and has never been updated. (*See* Tucek Sur., Verizon Ex. 3.0, p. 51).

based on a statistically significant sample of loop lengths in Verizon's network." (Hendricks Reb., IRCA Ex. 2.0, p. 14). Mr. Hendricks never explains why a sampling method would be superior to ICM's method.

Indeed, utilizing average loop length is not a superior method of estimating customer location. The record demonstrates that ICM's approach is more accurate. As Mr. Tucek testified:

> This approach is superior to one that relies on average loop length, or even the distribution of loop lengths, because it accounts for the dispersion among customer locations within a wire center. It is a reasonable approach because it relies on road feet to develop the dispersion among customers and because roads are generally constructed to get somewhere, be it a residence or business location. Moreover, as I pointed out in my Rebuttal Testimony at page 37, the total amount of sheath feet modeled by ICM is ***1.2 percent less*** than the actual amount in the network. Clearly, ICM's customer location inputs have not resulted in too much local loop plant being built in the modeled network.

(Tucek Sur,, Verizon Ex. 3.0, p. 54, emphasis added).

In sum, ICM's modeling of customer locations is accurate. Staff agrees. As Mr. Hendricks admits, his position is result-driven. As such, IRCA's position is not supported by a proper analysis that explains why his sampling proposal is better. There is no proper analysis to support IRCA's position. Indeed, the fact that the total amount of sheath feet modeled by ICM is 1.2% less than the actual amount in the network is proof that the ICM modeling process is reasonable. (Tucek Reb., Verizon Ex. 2.0, p. 37; Tucek Sur., Verizon Ex. 3.0, p. 54).

D. Issue 4: ICM Is Testable, Flexible And Open To Inspection

Verizon witness Tucek testified that ICM is flexible because:

> …it produces both TSLRIC and TELRIC estimates, meaning it can be used for the purposes of establishing UNE costs and to assist in retail rate rebalancing. In addition, the Mapping/Report Module of ICM allows the user to define new elements or services by assembling the desired type and number of basic network functions. Thus, ICM can respond to new requirements for element or service costs.

(Tucek Dir., Verizon Ex. 1.0, p. 10).

Indeed, the record demonstrates that ICM is very flexible. Nearly all of the assumptions—such as the average spacing between poles—that drive decision rules within the model are user changeable, as are all of the inputs related to material and placement costs. (Tucek Reb., Verizon Ex. 2.0, p. 53). The inputs that cannot be changed via the run time options screens are contained in tables that are easily changed. (*Id*.) These tables can be altered from within ICM or, if the changes are numerous or complex, the table can be exported to an external application such as Microsoft Excel, modified, and imported back into ICM. (*Id*.)

In his Direct Testimony, Mr. Boyles took issue with ICM's flexibility, testability, and openness to inspection. (Boyles Dir., AT&T Ex. 2.0, p. 7). In his Rebuttal Testimony, however, Mr. Boyles narrowed the scope of his claim to the single issue of updating ICM's switching inputs to reflect changes in the output from SCIS-MO. His only point is that the number of records involved (1,397) is greater than the 510 values needed to affect an across-the-board change to ICM's material inputs table. (Boyles Reb., AT&T Ex. 2.01, p. 4).

Mr. Boyles was wrong in his Direct Testimony, and he recognized that by abandoning those criticisms in his Rebuttal Testimony. The "retooled" criticism of his Rebuttal Testimony is equally flawed. Mr. Boyles ignores the fact that SCIS-MO will write its output to a text file that can then be read into ICM. (Tucek Sur., Verizon Ex. 3.0, p. 57). It is noteworthy that Mr. Boyles does not comment on whether or not he has the ability to extract information from

such a file, even though his proposed adjustment to getting started costs reveals that he has. (Tucek Reb., Verizon Ex. 2.0, pp. 66-67, fn. 11; Tucek Sur., Verizon Ex. 3.0, p. 57).

Additionally, as Verizon witness Tucek testified in his Surrebuttal Testimony, there are twelve criticisms that parties have raised in this proceeding with respect to ICM's flexibility. (Tucek Sur., Verizon Ex. 3.0, Att. DGT-1). As he explains, ICM can be modified to address each one of these criticisms. While Verizon does not agree with all of these criticisms, the fact that ICM can be modified to accommodate them demonstrates that ICM is flexible.

Staff witness Zolnierek's proposed standard for gauging the flexibility and openness of ICM is also flawed. While he correctly identifies the three basic ways that a user can alter ICM, he implies that the third method—modification of ICM's code—is not satisfactory and that any change ordered by the Commission must be accomplished by changing model inputs. (Zolnierek Reb., Staff Ex. 2.1, pp. 12-13). Mr. Zolnierek has proposed an impossible standard. As Verizon witness Tucek testified:

> Such a standard is not reasonable, since every model consists of more than just inputs. Mr. Zolnierek has acknowledged this himself, since he states that the tiered structure he identifies for affecting changes "is a natural byproduct of any cost model."

(*citing* Zolnierek Reb., Staff Ex 2.1, pp. 12-13; Tucek Sur., Verizon Ex. 3.0, p. 37).

Moreover, there is precedent that contradicts Mr. Zolnierek. The Florida Public Service Commission has ruled that BellSouth is not required to provide other parties access to the source code underlying their model, and the fact that BellSouth provided its source code only in PDF form did not hinder AT&T's and MCI WorldCom's analysis of the model. (Order, Florida Docket No. 990649-TP; May 25, 2001; p. 152). Verizon has exceeded this standard because ICM's source code has been provided in both text file and PDF form.

E. Issue 5: It is Unlawful to Review The Impact Of ICM On UNE Pricing As A Mode Of Analyzing ICM In Phase I

IRCA contends that the Commission should also review the impact of ICM on UNE pricing as a mode of analyzing ICM in Phase I. This is purely a result-driven approach that essentially makes Verizon's costs irrelevant. Indeed, if the Commission were to decide the reasonableness of a cost study based on its impact on rates, there would be no need for a cost study in the first place.

There is no place in the rate-setting process for an approach that would factor in standards that have nothing to do with Verizon's TELRICs in Illinois. Doing so violates the federal TELRIC standard as well as Part 791 of the Commission's rules. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd. 15499 (1996) ("First Report and Order"); 83 Ill. Adm. Code § 791.206 Moreover, adoption of such an approach could result in rates that are far below Verizon's forward-looking costs and, thus, place Verizon in the position where it could not recoup the costs of maintaining and investing in its network.

The absurdity in IRCA's position is evident in its cornerstone argument on this issue—a comparison of the ICM loop cost to Verizon's residential access line rate. IRCA witness Hendricks asserts that the UNE loop rate is higher than Verizon's monthly access charge and, thus, IRCA members would not be able to compete. (Hendricks Dir., IRCA Ex. 1, p. 6). Staff takes a similar position. In his Direct Testimony, Staff witness Koch states that:

> … [T]he loop rate should be less than Verizon's retail network access line rates. However, the ICM develops loop rates that *exceed* retail access line rates. Either the current retail access line rates need to be increased, or ICM is inflating the price.

(Koch Dir., Staff Ex. 1.0, p. 9).

Aside from the fact that this phase of the proceeding does not include review of UNE rates, Staff and IRCA comparisons to retail monthly access charges are simply outrageous and indicative of their misunderstanding of the ratemaking process. It is anything but a logical conclusion that the retail monthly access rate should bear any similarity to the UNE loop cost. The retail monthly access rate is a product of the retail rate design. (Dye Sur., Verizon Ex. 6.0, pp. 4-5). As such, the cost of providing a loop, or service for that matter, is not the only factor in determining the monthly rate. For example, Verizon's monthly local service retail rate do not include a contribution to common costs. (Tucek Reb., Verizon Ex. 2.0, p. 11, fn. 3). Because the FCC's rules require that UNE rates include a reasonable allocation of common costs, Verizon's local service retail rates cannot be used as a basis for any comparisons to UNE rates. (*See* 47 C.F.R. § 51.505). Suggesting costs are not accurate when compared to rates that are not cost-based is absurd. The Commission should reject these parties' attempts to inject extraneous and irrelevant standards into this Docket.

Moreover, IRCA's argument that somehow the UNE loop rate does not allow a CLEC to compete is also suspect. Again, the issue before the Commission in this phase of the proceeding is not to set UNE rates. If in Phase II of this proceeding, the Commission determines that the monthly access charge is lower than the loop cost, then IRCA should raise this rate design issue in Verizon's next rate case proceeding. The remedy should not be to artificially lower the UNE loop rate in order to conform with a rate that is not cost-based.

Furthermore, aside from being irrelevant, IRCA's statements regarding the ability to compete are unsupported. IRCA's argument assumes that a competitor would provide rates that mirror Verizon's rate design—namely to set a fixed monthly charge along with a usage charge. However, nothing prevents a competitor from offering a flat-rate charge that bundles usage with access. Nonetheless, Verizon's retail rate design is not an issue in this proceeding.

Mr. Hendricks also recommends that the Commission establish an interim UNE loop rate equal to the ratio of loop rates to local service rates that Verizon experiences in other states. (*See* Hendricks Reb., IRCA Ex. 2.0, p. 20). As discussed above, the objective of this phase of the proceeding is to establish a cost model that develops cost-based rates. Setting UNE rates is beyond the scope of this phase of the proceeding. Even if setting UNE rates were relevant, the use of such a proxy method to develop interim UNE loop rates would be inconsistent with the Telecommunications Act and the objectives of this proceeding.

F. Issue 6: The Commission Should Not Order The Use Of FCC Proxies As Interim UNE Rates

IRCA takes the position that the Commission should install FCC proxy rates as interim UNE rates. This contention is flawed for numerous reasons.

First, implicit in IRCA's position is the presumption that Verizon does not currently have authorized UNE rates in effect. This is not true. Verizon currently has authorized UNE rates that are available to any CLEC in Illinois. These rates were originally set in a Commission arbitration. (*Re: AT&T Communications of Illinois, Inc. v. GTE North Inc. and GTE South Inc.*, 96-AB-005, Order, December 3, 1996). Moreover, in its Order approving the merger between GTE and Bell Atlantic, the Commission required the continued use of these UNE rates. (*Application for the Approval of a Corporate Reorganization involving a Merger of GTE Corporation and Bell Atlantic Corporation*, Docket No. 98-0866). As such, IRCA's argument is a nonstarter.

Second, IRCA's position disregards the fact that UNE rates are being litigated in this proceeding. The institution of interim rates—in the midst of litigating new permanent rates—is simply not proper. This is especially true in light of the fact that this case was trifurcated by agreement of the parties. (Tr. at 5). For IRCA to now assert that the original schedule should be

disregarded disingenuously ignores the agreement that UNE rates would not be set in the first phase of this proceeding. While IRCA intervened in this proceeding after that agreement was reached, it is nonetheless subject to the procedural schedule in place at the time of its intervention. As such, it is improper for the Commission to remove existing cost-based rates and impose non-cost based rates on Verizon.

Third, IRCA's position would violate the law. The Act expressly contemplates that interim rates can only be instituted after a hearing. *See* 220 ILCS 5/13-502(b). No such hearing has been held and, accordingly, the Commission is without authority to mandate a change in rates.

Most importantly, the Commission is without authority to order rates that are not based on Verizon's costs. Section 13-504 of the Act specifically directs that the ratemaking provisions of Article IX of the Act are applicable to rates for the offer or provision of noncompetitive telecommunications services. 220 ILCS 5/13-504. Under the provisions of Article IX of the Act, as well as the Commission's Rules, a utility is required to present information to support its own costs for the provision of service in order to recover such costs in its revenue requirement. 220 ILCS 5/9-101 et seq.; 83 Ill. Admin. Code 285. Both the Act and the Commission's Rules make it clear that a utility's rates must be based upon its own costs. Under this regulatory scheme, both customers, competitors, and shareholders are protected. Contrary to the Act and the Commission's Rules, IRCA's proposes the use of proxy interim rates that have no basis whatsoever in Verizon's costs.

Finally, IRCA's position is not supported by evidence. IRCA's request amounts to an injunctive form of relief. However, nowhere in its evidentiary presentation does the IRCA support this extraordinary form of relief. Indeed, nowhere does IRCA explain how FCC proxy

rates correspond to Verizon's costs. In reality, they do not and cannot. The Commission has already determined that the FCC's proxy rates should not be used *even when there are no rates in effect.* (*Re: AT&T Communications of Illinois, Inc. v. GTE North Inc. and GTE South Inc.*, 96-AB-005, Order, December 3, 1996). Here there are existing rates and it makes no sense and would be unlawful to revert to unrelated proxy rates that are not cost-based. This is especially true since the Commission has already ordered Verizon to use the existing UNE rates pending completion of this docket.

In essence, the IRCA seeks to have the Commission ignore Verizon's actual costs in favor of rates that have no support whatsoever in the record. This is no secret in light of the fact that IRCA openly advocates an illegal result-driven approach to ratemaking.

For these reasons, IRCA's position is illegal and inconsistent with the schedule that has been set for this docket. As such, the Commission should reject it.

III.
Conclusion

For the foregoing reasons, Verizon respectfully requests that the Commission reject the criticisms of Staff, IRCA and AT&T as set forth herein.

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Respectfully submitted,

VERIZON NORTH INC. AND
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CERTIFICATE OF SERVICE

I, Michael Guerra, hereby certify that I served a copy of the Phase I Supplemental Initial Brief of Verizon North Inc. and Verizon South Inc. in Docket No. 00-0812 upon the service list by email on August 1, 2003.

Michael Guerra